

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL ACTION NO. C-10-1042
	§	
ISIAS FROILAN CAPRIEL-CHUN	§	

**ORDER ADOPTING FINDINGS AND RECOMMENDATION ON PLEA OF
GUILTY AND ORDER ENTERING A FINDING OF GUILTY**

The defendant was charged by criminal indictment with committing the offense of being a deported alien unlawfully present in the United States without first obtaining consent to reapply for admission in violation of Title 8, United States Code, Section 1326(a)(2). Pursuant to the authority in Title 28, United States Code, Section 636(b)(3) and this court's standing order of referral, this matter was referred to United States Magistrate Judge B. Janice Ellington to conduct a guilty plea proceeding. All parties waived their right to appear before undersigned and consented to have a magistrate judge conduct a guilty plea proceeding and allocution pursuant to FED. R. CRIM. P. 11.

The guilty plea proceeding was conducted on January 4, 2011, and the United States Magistrate Judge filed her findings and recommendation on plea of guilty on January 4, 2011(D.E. 13). The magistrate judge recommends that this Court (1) adopt her findings that the guilty plea was knowingly and voluntarily entered with full understanding of the consequences and that the plea was supported by an adequate basis in fact; (2) accept the defendant's plea of guilty; and (3) enter a finding that the defendant is guilty of the offense charged.

More than fourteen days have passed, and no party has filed an objection to the magistrate judge's findings and recommendation. The Court regards such omission as the parties' agreement with and acceptance of the magistrate judge's findings. When no timely objection to the magistrate judge's findings and recommendation is filed, the Court need only satisfy itself that there is no "clear error" on the face of the record to accept the magistrate judge's recommendation. *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)). The court finds no error.

Accordingly, the findings and recommendation of the magistrate judge are adopted. The Court accepts the defendant's plea of guilty and finds that the defendant is guilty as charged in the indictment. The Court specifically finds that the defendant is an alien to the United States and a citizen of Guatemala, that the defendant was last deported or removed as an alien from the United States on August 25, 2010, and that on October 28, 2010, the defendant was knowingly and unlawfully present in the United States having been found in Brooks County without first obtaining the permission of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission in violation of Title 8, United States Code, Section 1326(a)(2).

ORDERED this 3 day of March, 2011.


HAYDEN HEAD
SENIOR U.S. DISTRICT JUDGE